

Sumter City-County Board of Appeals

November 10, 2010

BOA-10-34, 6745 Stateburg Hills Dr. (County)

I. THE REQUEST

Applicant: Melvin Riley

Status of the Applicant: Owner

Request: A variance from Article 4, Section G, 4.g.2.b.4: Accessory Buildings and Uses of the Sumter County Zoning Ordinance in order to place an accessory garage building in the front yard instead of the required side or rear yard.

Location: 6745 Stateburg Hills Drive

Present Use/Zoning: Residential/ R-15

Tax Map Reference: 095-00-02-086

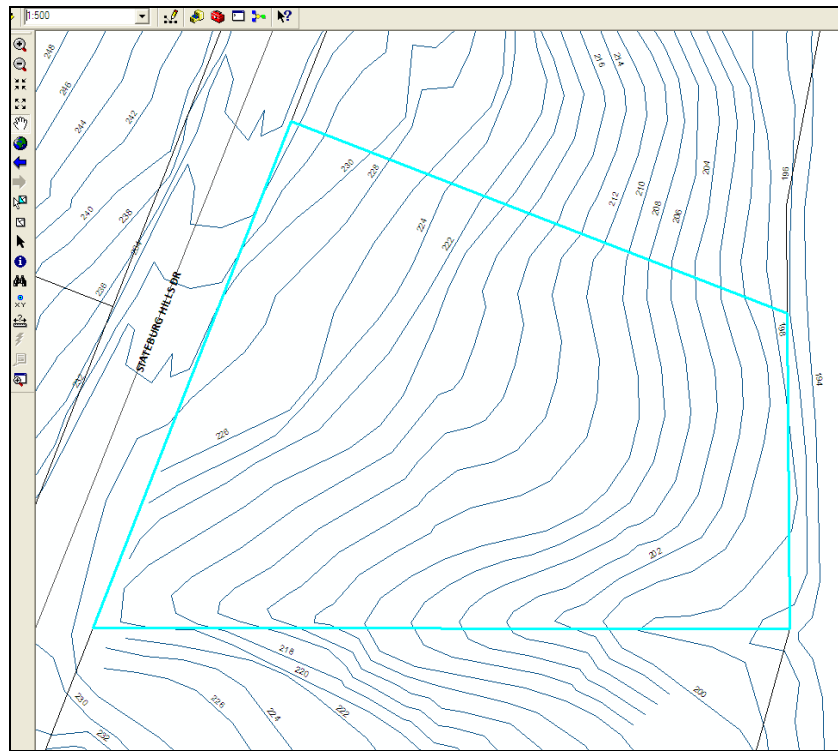
II. BACKGROUND

The applicant is proposing to construct a 1000 sq. ft. detached garage/storage building on a 1.5 acre parcel with an existing house. The lot is wooded and has steep terrain. The applicant has indicated that the new structure would be used for storage and as a 3-car garage. The house is built along the back portion of the property. The area on the parcel where the applicant is proposing to construct this structure is considered the front yard as the front portion of the detached structure lies in front of a line drawn from the primary façade to the side parcel line. The Sumter County Zoning Ordinance requires all detached garages to be located in the side or rear yard only.

Article 4, Section G, 4.g.2.b.4: Accessory Buildings and Uses:

Residential Accessory Buildings
Location requirements

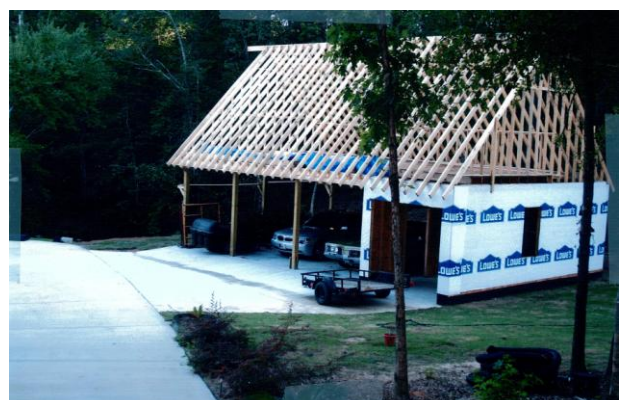
Detached garages shall only be located in the side or rear yard of a parcel and shall be located no further forward on the lot than the principal structure, etc.



The existing house is located on the back portion of a large wooded lot about 1 ½ acres in size with some steep topographical challenges. The proposed garage lies on the south portion of the property between the side lot line and the house, but it is located forward of the primary façade.

The garage/storage building in question is in the process of being built, and is under a stop work order because it was started without permits. According to the building permit application submitted after the stop work order was issued, the garage is 1,000 square feet. The lot contains 1.5 acres, and the house itself is 3100 sf with 500 additional unheated square feet. The size of the new accessory 3-car garage/storage building is within the allowed dimensions and size per Exhibit 8A in Article 4 of the County Zoning Ordinance (maximum 1325 sf).

The following photographs show the garage under construction and the property.





Mr. Riley stated that he is limited to this particular location for the proposed garage because the topography in both side yard and to the rear is too steep to build a garage in which to park his vehicles. The applicant claims that he is further limited to the front yard area because of several existing large trees in the side yard that he wants to remain. The applicant says his intent is for the structure to be constructed of the same type of materials and colors as the house. He stated that he has spoken with his adjacent neighbors and they have no problem with the structure.

When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

III. FOUR-PART TEST

- 1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.***

The steep slopes at the side and rear of this parcel do create extraordinary and exceptional conditions on this property. There is no other buildable area on this site except the front/side yard.

- 2. These conditions do not generally apply to other property in the vicinity.***

These conditions do not generally apply to other properties in the vicinity. Other properties on this street do have sloping topography but the structures on these properties are oriented differently and built closer to the road, and therefore lend themselves to more options for locating detached accessory buildings.

- 3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.***

The application of the ordinance does restrict the use of the property. A detached garage is a customary use on residential parcels, and the applicant needs to store his personal vehicles for protection from the weather. If the applicant were to proceed under the strict adherence to the ordinance, the applicant would have to construct the structure in the side yard no closer to the front property line than the principle structure (the house). By doing so, the applicant would not be able to build the structure because of the steep slopes and difficult drainage characteristics of the property. There are numerous retaining walls on both sides of the property and there are areas where erosion is evident. If the retaining walls were removed, slope failure would certainly result.

- 4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.***

The authorization of a variance would not be a substantial detriment to the adjacent properties and to the public good. Because the structure is located among a grove of trees and is being built of the same type of materials and colors as the house itself, it will not take away from the character of the neighborhood, but will be an attractive addition to the site.

IV. STAFF RECOMMENDATION

Staff finds the request meets all four conditions of the four part test. The topographical problems and retaining walls hinder the applicant from locating the structure within Ordinance requirements. Staff recommends approval of this variance request with the condition that the proposed structure is built of the same or very similar materials and colors as the existing house.

V. DRAFT MOTIONS for BOA-10-34

- A.** I move that the Zoning Board of Appeals approve BOA-10-34 subject to the findings of fact and conclusions and with the conditions recommended by Staff.
- B.** I move that the Zoning Board of Appeals deny BOA-10-34 on the following findings of fact and conclusions:
- C.** I move that the Zoning Board of Appeals enter an alternative motion for BOA-10-34.

VI. ZONING BOARD OF APPEALS – NOVEMBER 10, 2010

The Sumter City-County Board of Appeals at its meeting on Wednesday, November 10, 2010, voted to approve this request subject to the findings of fact and conclusions attached as exhibit 1.

Exhibit 1
Order on Variance Application
Sumter Board of Appeals

BOA-10-34, Melvin Riley
6745 Stateburg Hills Drive
November 10, 2010

Date Filed: November 10, 2010

Permit Case No. BOA-10-34

The Sumter Board of Appeals held a public hearing on Wednesday, November 10, 2010 to consider the appeal of Melvin Riley 6745 Stateburg Hills Dr. Sumter, SC 29150 for a variance from the strict application of the Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant ☒ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

The steep slopes at the side and rear of this parcel do create extraordinary and exceptional conditions on this property. There is no other buildable area on this site except the front/side yard.

2. The Board concludes that these conditions ☐ **do** - ☒ **do not** generally apply to other property in the vicinity based on the following findings of fact:

These conditions do not generally apply to other properties in the vicinity. Other properties on this street do have sloping topography but the structures on these properties are oriented differently and built closer to the road, and therefore lend themselves to more options for locating detached accessory buildings.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☒ **would** - ☐ **would not** effectively prohibit or unreasonable restrict the utilization of the property based on the following findings of fact:

The application of the ordinance does restrict the use of the property. A detached garage is a customary use on residential parcels, and the applicant needs to store his personal vehicles for protection from the weather. If the applicant were to proceed under the strict adherence to the ordinance, the applicant would have to construct the structure in the side yard no closer to the front property line than the principle structure (the house). By doing so, the applicant would not be able to build the structure because of the steep slopes and difficult drainage characteristics of the

property. There are numerous retaining walls on both sides of the property and there are areas where erosion is evident. If the retaining walls were removed, slope failure would certainly result.

4. The Board concludes that authorization of the variance ☐ will - ☒ will not be of substantial detriment to adjacent property or to the public good, and the character of the district ☐ will - ☒ will not be harmed by the granting of the variance based on the following findings of fact:

The authorization of a variance would not be a substantial detriment to the adjacent properties and to the public good. Because the structure is located among a grove of trees and is being built of the same type of materials and colors as the house itself, it will not take away the character of the neighborhood, but will be an attractive addition to the site.

THE BOARD, THEREFORE, ORDERS that the variance is ☐ DENIED - ☒ GRANTED, subject to the following conditions:

That the garage/storage building is built of the same or very similar materials and colors as the existing house.

Date issued: 11-10-10

Approved by the Board by majority vote.

Lay M. Stockbridge
Chairman

Date mailed to parties in interest: 11-12-10

Julie A. Scarborough
Secretary

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.